IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8071 OF 2003

Rohit Enterprises..... ... Petitioner.

Versus

Mohanlal Deepchand Chordiya & Anr.. Respondents.

Mr. L. S. Gaikwad for the Petitioner.

Mr. R.D.Soni i/by M/s. Ram & Co.,
for the Respondents.

CORAM : S. A. BOBDE, J.

DATED : JANUARY 18, 2005.

P.C.:

The petitioner questions the concurrent findings of two courts below dismissing the petitioner's suit for possession.

2. The petitioner sued the respondents for declaration and injunction claiming to be a tenant of property situated in C.T.S.No. 4643 and 4643/1 Chinchwad owned by the respondents. The petitioner claimed that he was tenant of premises admeasuring 10 ft. x 7 ft. and paying rent at the rate of 12.50 ps. The petitioner, however, stated in his evidence that

he is a tenant of room admeasuring 500 sq.ft. According to the petitioner, he was inducted by the defendants in the year 1972 and has become deemed tenant by virtue of Section 15A of the Bombay Rent Act.

3. The trial Court found that the petitioner was never in possession of the suit premises and is therefore not entitled to declaration and injunction. This finding has been confirmed by the appellate court.

4. Both the courts below have found that petitioner did not produce any agreement though pleaded regarding his induction in the premises. The courts below have also found that the petitioner has not established the payment of any licence fee or rent by producing and proving any receipt. It appears that the petitioner also contended that Municipal records show his name as tenant. The trial court has observed that the Municipal record may be in respect of other premises where he is a tenant. There is no dispute that a litigation in respect of other premises where the petitioner is a tenant is pending, vide paragraph 6 of the judgment of the trial court.

5. Having regard to these circumstances and particularly the total absence of evidence regarding the petitioner's induction or occupation of the premises and having regard to the concurrent finding of fact of both the courts below, I am not inclined to entertain this petition.

6. Mr. Gaikwad, the learned Counsel for the petitioner, vehemently argued that the suit premises have been demolished by the respondents and that there are photographs to that effect. The appellate court has observed that the photographs sought to be relied upon by the petitioner have not been proved and are not exhibited. It appears that no attempt was made by the petitioner to prove those photographs either before the trial court or by applying for permission to produce additional evidence before the appellate court. It is not, therefore, possible to accept this contention on behalf of the petitioner. Moreover, assuming that there was some demolition, it has no bearing on proof of induction of the petitioner or his achieving the status of a tenant under Section 15-A of the Bombay Rent Act.

5. In the circumstances, there is no merit in the petition, which is hereby dismissed.

Sd/-

S. A. BOBDE, J.